

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FILED
SCRANTON

SEP 26 2013

ELLIOT LOPEZ,

Petitioner

v.

MONICA RECKTENWALD,

Respondent.

PER M. E. R.
DEPUTY CLERK

CIVIL ACTION NO. 4:13-CV-998

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, this 26th day of September, 2013, IT APPEARING TO THE COURT THAT:

(1) Petitioner, Elliot Lopez, a prisoner confined at the FCI- Allenwood, White Deer, Pennsylvania, filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. §2241 on April 17, 2013;

(2) In his petition, petitioner alleges that his Due Process rights were violated during a prison disciplinary action;

(3) The action was assigned to Magistrate Judge Thomas M. Blewitt for Report and Recommendation;

(4) On August 1, 2013, the Magistrate Judge issued a Report and Recommendation (Doc. 7) wherein he recommended that the petition for writ of habeas corpus be denied;

(5) Specifically, the Magistrate Judge found that the due process protections set forth in Wolff v. McDonnell, 418 U.S. 539 (1974) and Cook v. Warden, Fort Dix Correctional Institution, 241 Fed. Appx. 828 (3d Cir. 2007) were afforded to petitioner;

(6) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. §636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

(8) We have considered the Magistrate Judge's Report and we concur with his recommendation.

(9) After reviewing the record, we agree with the Magistrate Judge's analysis that Petitioner was afforded all the due process to which he was entitled under Wolff and Cook, supra.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated August 1, 2013 (Doc. 7) is **ADOPTED**;

(2) The Petitioner's petition for writ of habeas corpus is **DENIED**;

(3) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Memorandum and Order to the Magistrate Judge; and,

(4) Based on the court's conclusions herein, there is no basis for the issuance of a certificate of appealability.



Edwin M. Kosik

United States District Judge